THE SUFFRAGE CLAUSE IN THE NEW CONSTITUTION OF LOUISIANA.

THE long continued domination of one political party in Louisiana led there, as it has elsewhere, to abuse of power and fraud. The faction in power resorted to whatever means became necessary to keep the negroes from exercising the political power that was theirs, had they been well organized. Fraud upon the negroes naturally led to fraud upon members of any opposing faction, even if nominally of the same party. New political combinations resulted, of populists, protectionists, and opponents of election frauds. It is said that they were actually in the majority, but the so called Democrats being in possession of the machinery of political power, managed to retain it. This led to a cry for a Constitutional Convention to form a new Constitution by which the political power of the negroes could be fettered. The problem was to get a new Constitution that would eliminate much more than half the vote of the citizens, and yet that would not be defeated if submitted to the voters of the State, including those who would be disfranchised under it. On the other hand, if a call were issued for a Convention with full powers to frame a new Constitution, the party in power without the approval of a majority of the voters, would certainly oppose the calling of a convention, as one of its first acts would be the abolition of the existing administration. The difficulty was skilfully solved by drawing up and passing an act to be submitted to the voters, calling for a Convention, but with limited powers, and providing also that the new Constitution should go into effect without the approval of the electors. The electors of the State voted in favor of holding a Convention under the terms of this act, and elected delegates to that Convention. This act, thus adopted by the popular vote, and approved July 7, 1896, is a curiosity among the acts calling constitutional conventions. It provided that there should be submitted to the electors of the State, on the second Tuesday of January, 1898, for their approval or rejection, a proposition to hold a Convention to frame a new Constitution for the State upon the following terms and conditions: —

"1. The Convention to meet in New Orleans on the second Tuesday of February, 1898.

"2. To consist of 134 delegates, 98 from parishes and representative districts as now provided for representation in the House and 36 from the State at large.

"3. With power to frame and adopt, without submission to the people, a new Constitution for the State, provided the Convention shall be and is prohibited from enacting, ordaining, or framing any article or ordinance:

"*a.* Impairing the bonded indebtedness of the State or of any subdivision thereof, or affecting, impairing, etc. the interest thereon, etc., without the consent of the holders thereof;

"*b.* Increasing the rate of taxation as now limited by the Constitution, other than for the purpose of aid by parishes, etc. to public schools and public improvements, upon the approval of the property taxpayers affected by such increase;

"*c.* Altering, etc. the existing levee system;

"*d.* Reducing, etc. the term of office of the present General Assembly, etc., prior to the first Tuesday after the third Monday in April, 1900;

"*e.* Making elective, or shortening or diminishing the salaries of the Justices of the Supreme Court;

"*f.* Changing the existing prohibition of lotteries;

"*g.* Removing the Capitol from Baton Rouge."

Sec. 2 provided for holding an election under existing laws and by existing electors for a Constitutional Convention upon these conditions, at which the electors shall vote for or against such a Convention.

Sec. 3 provided for the election of delegates to such a Convention, to meet only if the vote for a Convention prevailed.

Sec. 4 provided that the Convention should meet in New Orleans on the second Tuesday of February, 1898, at a place to be designated by the Governor, the Chief Justice to preside temporarily and to administer the oath of office, the Secretary of State also attending and calling the roll. Each delegate must swear that he will well and faithfully perform all duties as a member of this Convention, observe and obey the limitations of authority contained in the act under which the Convention is assembled, no delegate being qualified until he shall have taken this oath. A permanent organization shall then be effected.

Sec. 5 provided a per diem payment to members of five dollars and necessary travelling expenses not to exceed $50 in any one case, but for 70 days only.

Sec. 6 appropriated $80,000 for the expenses of the Convention.

Sec. 7 directed the Governor to make proclamation and give notice of such election at least 30 days before its date.

The act was a very shrewd device to tie the hands of the members of the Convention, and yet to put into effect the result of their deliberations without submission to the electors. This was done by the electors themselves, who, while voting to call this Convention, also voted not to pass by their votes upon the new Constitution, but to put it in force without popular ratification. It would seem that great indeed must have been the necessity for a new Constitution when, coupled with an affirmative vote for calling a Constitutional Convention, was the renunciation by the electors of their right to pass upon the results of the labor of the Convention. This may be shrewd politics, but it is poor statesmanship thus to compel the electors to renounce their rights or else go without a much needed new Constitution.

It is strange that the practice of putting a new Constitution into force by the act of its framers without submitting it to the vote of the electors should be found to exist principally in that part of the country that is Democratic. Certainly it is a gross violation of the cardinal principles of the Democratic party, and has no sanction among our best authorities on constitutional law.

The act above recited having received the electoral approval, the members of the Convention began to gather in New Orleans early in February, 1898. Of the 134 delegates only 21 were of French descent. Lieut. Governor Snyder presided at a conference of 35 or 40 delegates, and said he was in favor of the proposition that every white man shall vote, because he is white, and no black man shall vote, because he is black. We cannot put in these words, he said, but we can attain that result. An "understanding clause" like that in the Constitution of Mississippi is elastic, and can be used effectively to prevent negroes from registering. He would have this continue until the year 1900. Then let every man who is registered vote as long as he lives, and let every one failing to register be forever afterwards debarred. After 1900, he would favor an educational or property qualification for those coming into the State or reaching majority. He thought we must give the illiterate white people a chance to register, and this can only be done through an elastic clause. Other plans suggested aim at disfranchising seventy-five per cent of the negroes. Why not

disfranchise them all while about it. We must completely eliminate the negro as a factor.

Another delegate, the Hon. G. W. Bolton, said that the Convention is confessedly called upon to settle the question whether the blacks shall vote. Another gentleman, Charles A. Price, wanted to start right in with the suffrage question and do nothing else until that was finally disposed of.

An editorial in the Daily Picayune of February 8 stated that the most glaring deficiency in the old constitution, to be remedied now, is the question of the elective franchise.

The Convention was formally called to order, February 8, 1898, by Chief Justice Nicholls in Tulane Hall, every member but one being present. After a call of the roll by the Secretary of State, the peculiar oath provided in the act above described was administered by the Chief Justice to batches of ten delegates at a time. It is worthy of note that the same gentleman presided at the opening of the Convention of 1879. The Hon. Ernest B. Kruttschnitt was elected President of the Convention by unanimous vote. In assuming the chair he said, "We have here no political antagonism and I am called upon to preside over what is little more than a family meeting of the Democratic party of the State of Louisiana." He spoke of the convention as "an assembly composed of 134 of the leading Democrats of the State." As to the suffrage question, he said: "We are all aware that this Convention has been called by the people of the State of Louisiana principally to deal with one question, and we know that but for the existence of that one question this assemblage would not be sitting here to-day. We know that this Convention has been called together by the people of the State to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter of a century degraded our politics. . . . That question, my fellow citizens, is one that reaches beyond State lines to-day. I believe that our Northern fellow citizens begin to feel the race sympathy stirring within their breasts. They know that the question that we are trying to solve here is one which imperils not only the integrity of the future government of the State of Louisiana and those of eight or ten other Southern States, but that we, sitting here as a deliberative assembly, and the assemblies of the other Southern States are to decide whether the presidential office is to be set up for barter and sale on account of the irresponsible character of the constituency in these Southern States, and of the venality and corruption of the dele-

gations which they send to certain national conventions. Only a few years back it might have been considered impolitic to say what I am now saying, but there are men standing high to-day in the councils of the nation, who have seen the doors of the White House blocked by the ignorant and corrupt delegations of Southern negroes, and we know that they cannot but feel a sympathy with us in our aspirations and efforts."

Yes, the sympathy of patriots not only in the Northern States but also throughout the whole Union, has been aroused in contemplating the unexpected and bad results that have followed from conferring the suffrage upon the mass of ignorant blacks throughout the South. Let us freely admit that a great mistake was made in thus conferring the suffrage upon them, but let us not lend ourselves to another and perhaps a still more serious mistake by correcting this error by some ultra constitutional method. We may rest assured that in the long run the cause of constitutional liberty is best maintained by correcting errors only by the methods pointed out in the Constitution.

The president also spoke of the importance of education and of the Judiciary, although he spoke of them as of minor importance as compared with the suffrage question, which was the first to come before them and to settle which the Convention was really called. In this paper it is proposed to treat principally of this subject, as the space allowed us is too brief to give thorough examination of the other subjects passed upon.

A committee of nineteen members to consider what committees should be appointed was the first business of the session, and they reported the next morning, recommending the appointment of a Committee of twenty-five members on Suffrage and Elections, another on the Judiciary, and they further recommended a resolution that was adopted, providing that no ordinance, etc., shall be considered until the report of the Committee on suffrage and Elections shall have been made to and finally acted upon by the Convention; all other business to be referred at once to appropriate committees.

The next day, February 10, five plans for suffrage were introduced and referred to the Suffrage Committee when appointed. February 11, three more suffrage plans were introduced and referred.

Rules for the Convention were submitted and adopted, and it was voted to appoint certain named Standing Committees.

February 14, by invitation, the Committee was addressed by Dr. J. L. Curry representing the Peabody Educational Fund. He told the Convention that "a Constitutional Convention is the embodiment of popular sovereignty. Except under the mutations of the moral law and the prohibitions of the Federal Constitution, and possibly some restrictions embodied in the law summoning this body, this body is sovereign and its civil power is unlimited. Its decisions are ultimate. For expediency sake, but not of right, they may be conditioned on popular approval, but such an appeal is not essential to validity."

We cannot help expressing surprise and regret that such erroneous views should be given sanction by a man of so high a position, and can only excuse them upon the supposition that the learned doctor spoke without adequate preparation upon a subject not within the sphere of his professional acquirements. Had he studied Jameson, Von Holst, and other writers on constitutional law he would have found that the views he presented are not in accord with those presented by admitted authorities. A Constitutional Convention no more embodies the sovereignty of the people than the Legislature does. Both are but the agents of the sovereign power. Not even the vote of the electors to accept the result of a Constitutional Convention as the supreme law of the State without ratification by the electors constitutes a Convention the sovereign power. Such a fundamental error should not be allowed to pass unnoticed. Doubtless it would be a very welcome doctrine to our political bosses like Croker, Platt, and Quay, for under its cover they could work still further the enslavement of our people, and their deprivation of political power. The price of liberty is eternal vigilance, and error like this should not pass uncorrected.

Both legislatures and constitutional conventions are representative bodies. They act for the electors because it is impossible for all the electors to meet and act. But the sovereign is the person or body of persons in a State over whom there is politically no superior.[1] "Sovereignty is and remains in the people." It is inalienable, that is, "society can never delegate or pledge away sovereignty. . . . Being inherent and necessarily in the State, it cannot pass from it so long as the latter exists."[2]

In the rest of his address Dr. Curry most forcibly and with great

[1] Jameson on Constitutional Conventions, sec. 18; Penhallow *v.* Doane's Adm'rs., 3 Dallas, 54.

[2] Lieber, Political Ethics, pp. 250, 251.

ability set forth the advantages of education, the necessity of an efficient common school education, the injustice and bad results that would follow if the common school education to be given to the negroes were limited, as had been proposed, to the share of the tax paid by them.

At the session held February 15, many ordinances or propositions as to clauses in the new Constitution were introduced and referred to the appropriate committees. Among them were five relating to the suffrage. The Suffrage Committee, the most important committee of the Convention, met and discussed some of the plans proposed. The suggestion of registering officers with dictatorial power was deprecated, and it was admitted that illiteracy was so great in Louisiana that an educational qualification would exclude too many whites, besides excluding the blacks. An editorial in the Picayune frankly stated, "The difficulty is to let in the illiterate whites, while shutting out the ignorant negroes." One plan suggested was to make voters of all persons entitled to vote on January 1, 1865. The object is obvious. At that date, although the Thirteenth Amendment to the Constitution of the United States had passed (abolishing slavery), the Fourteenth Amendment (in effect making negroes citizens) had not passed. Therefore in January, 1865, the negroes in Louisiana could not vote, and to give the suffrage to those who had it in 1865 would exclude the negroes. The suggestion becomes important in view of the plan afterwards adopted.

February 17, the Suffrage Committee met and heard arguments on various suffrage plans before them. The burden of these speeches was how the problem should be solved of preventing the negroes from voting and yet of keeping within the provisions of the Constitution of the United States. The subject was still further considered on February 18, by the Suffrage Committee in executive session. The next day United States Senator McEnery, formerly Governor of the State, addressed the Suffrage Committee. He maintained it is against all natural laws to allow the blacks to vote. The Suffrage Committee continued its work the next week. Among other plans it was proposed to use the registration of electors that was taken in 1897 as a basis for the right to suffrage. This plan might have been adopted if warning had been given in time before that registration to make an effort to secure registration of all the whites. A sounder objection to this plan was pointed out. It would involve investing too great confi-

dence in the registrars. One would think that danger from this source could be avoided by giving a right to appeal from the registrars' decision. But it was felt that this would impair the efficacy of the system in preventing negroes from attempting to register.

In order to give time to secure full registration of the whites, it was proposed to extend the time to January 1, 1899.

The suggestion was made that all persons be admitted to the suffrage who were voters January 1, 1868. This was before the adoption of the Fourteenth and Fifteenth Amendments to the Constitution. If adopted, this plan would obviate the necessity of an "understanding" clause, like that in the new Constitution of Mississippi (under which the registrars can exclude from the list of electors any one who, being unable to comply with the educational qualification of reading and writing, cannot *understand* a clause in the Constitution of the United States when read to him). It would admit to the suffrage all the veterans of the civil war whether northern or southern.

It only remained to give the right to vote to this class and to their male heirs, and the negroes would be forever excluded from the right to vote! But for some reason not disclosed the Suffrage Committee came to the conclusion that it would be unconstitutional to adopt this course.

On the 1st of March the subcommittee of six on a plan for suffrage reported to the committee the plan that was adopted afterwards, with some additions and verbal changes, substantially as the suffrage scheme of the Constitution. Briefly it is this.

Art. I. (Art. 197 of the Constitution). Every male citizen of the State and of the United States, native born or naturalized, not less than twenty-one years of age and possessing the following qualifications, shall be an elector and entitled to vote at every election in the State, except as hereinafter otherwise provided.

Sec. 1. He shall have been an actual *bona fide* resident of the State at least two years, with provision as to length of residence in the parish ward or precinct, and for removal from one precinct to another without loss of vote.

Sec. 2. Registration shall precede voting. The present voting and registration laws shall remain in force until December 31, 1898, and then the provisions herein contained as to suffrage and registration shall go into effect.

Sec. 3. He (the voter) shall be able to read and write as demonstrated by his personal application in writing for registration, under oath, (with

provision in case of physical disability) in accordance with the form stated.

Sec. 4. If unable to read and write he may register and vote, if a *bona fide* owner of property assessed at not less than three hundred dollars, on which all taxes due shall have been paid.

Sec. 5 contains the meat of the suffrage plan. No male person entitled to vote January 1, 1867, in any State wherein he then resided, and no son or grandson of such person not less than twenty-one years old at the date of the adoption of this Constitution, and no male person of foreign birth naturalized prior to January 1, 1898, shall be denied the right to register and vote by reason of his failure to possess the educational or property qualification herein prescribed. To this was subsequently added, provided he shall have resided in this State five years next preceding the date at which he shall apply for registration and shall have registered in accordance with the terms of this article prior to September 1, 1898, and no person shall be entitled to such registration thereafter. (Then follows provision for application for such registration and the oath to be taken, etc., with power to the Legislature to provide for future registration and purging the list kept hereunder.)

After a vigorous contest, Art. 198 was afterwards added, providing for a poll tax of one dollar per annum to be used exclusively in aid of public schools, to be paid before voting, unless the voter be over sixty years old.

Art. 199 was afterwards added, providing that upon all questions submitted to the taxpayers of any municipal or other political subdivision of the State, women taxpayers shall also have the right to vote without registration, in person or by their agents authorized in writing.

Art. 201 provides a remedy to those denied registration, by appeal, etc.

Art. 202 specifies who shall not be entitled to registration and the suffrage: criminals, inmates of charitable institutions, except the Soldiers' Home, persons confined in public prison and interdicted, and insane and idiotic persons.

Art. 203 provides that all elections by the people shall be by ballot, and the ballots shall be publicly counted. In all elections by persons in a representative capacity, the vote shall be *viva voce.* (Query, why this clause?)

On the 4th of March the committee on suffrage made their report, submitting the plan for suffrage substantially as outlined above. In explanation of Section 5, the crux of the plan, the chairman, General T. F. Bell, said: "The committee desire to say that

all through our work we have found frowning before us a solid stone wall prohibiting us from planting in the Constitution, prohibiting us from denying the right to vote to a certain class. Had that been out of our way, our work would have been easier. . . . We have builded up a structure with the very remote possibility that Section 5 will not stand the test of hostile courts. If it fails, you will still have a fairly good system without it. The probability of this is very remote."

The subject was made the special order of the day for March 8, and was then discussed at length, most of the opposition being based upon the omission of a poll tax clause. This, however, as already explained, was afterwards added. The President, Mr. Kruttschnitt, spoke earnestly in favor of the plan recommended by the Suffrage Committee. He spoke of it as "the greatest question which has been before the people of the State of Louisiana since, in the month of January, 1861, they were called upon to consider the question of the severance of the relations which bound them to the other States of the Union. . . . We all know, we, the white people of the State of Louisiana, that the problem which we desire to solve is to undo the greatest crime of the nineteenth century, the placing of the ballot in the hands of the negro race by the Fifteenth Amendment to the Constitution of the United States." (Applause.) He argued that ignorance, as represented by the black race, must be eliminated and prevented from voting, yet those (white men) who fought for the South, and were ignorant, must be allowed to vote. He discussed the poll tax but did not favor it, because it can be easily used to further political fraud. To guard against this, its payment a year before election was suggested. Several speakers admitted the problem to be the finding of a lawful method to prevent the negroes from voting. Judge Coco spoke of "our efforts to eliminate the negroes from our electorate." He recognized the fact that were it not for the Fourteenth and Fifteenth Amendments to the Constitution of the United States, but a few lines would settle the question. "These would do it: 'No one but white citizens shall exercise the right of suffrage in this State.'" He was opposed to Section 5 because he believed it to be unconstitutional. He argued that, inasmuch as in 1868, only whites could vote, the fifth section might as well read: "No person shall be denied the right to vote who, on January 1, 1868, or any date prior thereto, was a white citizen of the State of Louisiana. . . . No one will deny that this would be unconstitutional. To my mind, the

section presents a weak and transparent subterfuge and unmanly evasion of the Constitution of the United States, and on that ground alone I could not give it my support."

Mr. Soniat argued against the unconstitutionality of Section 5 because it is ambiguous in not stating whether it is under the civil or the military laws of Louisiana prior to 1868 that voters were to be granted the suffrage. He said that in 1867, under the military law then in force, every male negro of twenty-one years or over in the State could vote. Were they to become voters now under this clause?

The debate was continued the next day. Mr. Burke said: "The injunction of the people on the suffrage was twofold: eliminate as many of the negroes as possible, and as few of the whites. . . . The reason for putting in that clause" (Section 5) "was to put the State absolutely in the hands of the white people, as far as can be done without contravening the Constitution. If they adopt this clause, they would take in the bulk of the white people of the State. It was not because he was a hereditary voter as his father's son, but because he was a white man."

Here is a distinct recognition of the grant of the right to vote to the white man because he is a white man. Is it not a denial to the black man on account of race, color, or previous condition of servitude, and therefore in contravention of the Fifteenth Amendment?

Mr. Sanders said: "We are here to write in the organic law of Louisiana that the white man shall always rule this State." (Applause.)

Continuing the debate, March 10, Mr. Breazeale spoke against allowing any man to vote on a property qualification when the property was his wife's or his minor children's.

"Mr. Boatner: 'Will Mr. Breazeale permit me to suggest that the committee was seeking in this, in a general way, the exclusion of all the negroes and the inclusion of the whites?'

"Mr. Breazeale: 'Was this then an act of principle or expediency?'

"Mr. Boatner: 'Well, of expediency.'"

Mr. Breazeale opposed the registration plan as a certain instrument of fraud. After another day's vigorous debate, so many spoke in favor of a poll tax clause that the measure was recommitted to the Suffrage Committee.

Judge Coco wrote to the Picayune: "The very reason of this

Convention is, in morals, dishonest, for its purposes are to do in an indirect way what we cannot do directly. The Fifteenth Amendment, to protect the negro and for that purpose alone, provides that the right of suffrage shall not be denied or abridged on account of race, color, or previous condition of servitude. We propose to deny him that right on account of his race, color, or previous condition of servitude. This unconstitutional measure we propose to enact through constitutional and honest means. Well, I say it cannot be done through constitutional and honest means. Whilst we might and must surround the right, after conferred, with proper safeguards, such as will secure an honest and fair expression of the suffragans' will at the polls, we must limit the right to white men, and this we are of necessity compelled to do through dishonest means."

Judge Semmes, continuing the debate, March 16, declared Section 5, in his opinion, not to conflict with the Fifteenth Amendment, because in 1867 "there were five or six States in which persons of color were entitled to vote."

But this ignores the fact that it would exclude from the suffrage all the negroes of Louisiana, — unless they should be found to be voters under the provisions of the military laws in force at that time, in which case the whole object of Section 5 would be defeated. Judge Semmes contended that the clause in question is not in conflict with the Fifteenth Amendment, because it is not based on race, color, etc., but upon a previous right to vote. But was not this previous right to vote based upon race, color, etc.? He called attention to the fact that, even should Section 5 be declared unconstitutional, there still remains a good constitutional working scheme, the difference being that no one could vote under Section 5. He said, "We proclaimed, at least in my part of the State, that we were coming to establish the ascendency of the white race, and to see to it that no white man should be disfranchised."

Mr. Bailey, the only Populist in the Convention, while avowing himself a believer in the supremacy of the white race, doubted the constitutionality of Section 5. He thought its provisions were too broad and provocative of fraud, as too much power is given to the registrars.

March 18 consternation prevailed among the members of the Convention upon receipt of opinions from the United States Senators from Louisiana, Caffery and McEnery, that Section 5 is unconstitutional. A caucus was held at which the subject was

discussed. It was said that a telegram from Senator McEnery stated that Section 5 was grossly unconstitutional, that he had submitted it to several leading Democrats of the Senate, who conferred with him, and he stated it would have the effect of losing the State representation in Congress and in the electoral vote. Senator Caffrey took the ground it was unconstitutional because it established a privileged class of voters for three generations, without qualifications, while it imposed qualifications on other voters, and also because it discriminated against the colored people.

A good deal of feeling was shown by the speakers, and much surprise at the course taken by the Senators.

Judge Munroe read a written opinion embodying a proposal to admit to the suffrage all men who enlisted in the Confederate army from seceding States and their sons and grandsons, and all men who enlisted in the Federal army from non-seceding States, and their sons and grandsons. He contended this would be constitutional, because many negroes enlisted in the Federal army from seceding States, while many men enlisted in the Confederate army from non-seceding States.

Mr. Strongfellow said he was in favor of an "understanding clause." He thought that under it they could make one grand sweep, include all the white people, and then put the bars up as they wanted to, and thus settle the suffrage question for all time to come.

In consequence of the objections of the two Senators to Section 5, on March 22 an "understanding clause" was proposed, providing that every applicant for registration as a voter unable to read shall be examined by a registrar of voters or his deputy, and if in the opinion of such examiner, the applicant can understand the Constitution of the State, he shall be admitted to registration and to vote at all subsequent elections. This would place enormous power in the hands of the registrars, officers not of high rank nor probably of intellect. Perhaps owing to this, and also because of other reasons not disclosed, the next day the "understanding clause" was abandoned, and the Convention reverted to Section 5 somewhat modified, and adopted it on the 24th of March, adding the poll tax provision to take effect after 1900.

The Convention continued in session until May 13 but we limit ourselves in this article to the suffrage plans suggested and adopted, hence we pass over the consideration of other interesting work of

the Convention. The Constitution as finally adopted by the Convention is about one third longer than the Constitution it superseded. This greater length is due to the introduction of many petty details of legislation that should have been left to the Legislature to adopt in the form of statutes. This is a fault common to all the conventions of later years. Instead of confining themselves to a Bill of Rights, the enumeration of the powers of the three departments of the government, and, in general, the statement of broad principles, they all err in introducing details of legislation that should not be put into a Constitution, because, being more or less ephemeral, a change will soon be needed, and to bring about a change, either the Constitution must be amended, or the obnoxious detail must be got around. This leads to loss of respect for the Constitution.

Judge Semmes, the Chairman of the Judiciary Committee, the leader of the bar in the State, in seconding the motion to approve and sign the final draft of the Constitution, said, "We met here to establish the supremacy of the white race."

Mr. Kruttschnitt, the President of the Convention, spoke after Judge Semmes, closing the Convention, and said: "We have not drafted the exact Constitution we should have liked to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage and the exclusion from the suffrage of every man with a trace of African blood in his veins. We could not do that on account of the Fifteenth Amendment to the Constitution of the United States. . . . What care I whether the test we have put be a new one or an old one? What care I whether it be more or less ridiculous or not? Does n't it meet the case? Does n't it let the white man vote, and does n't it stop the negro from voting, and is n't that what we came here for?" (Applause.)

By far the most important matter passed upon was the question of the suffrage, the admitted purpose being the adoption of a plan that would keep out the negroes and admit the whites and yet that would not be open to the charge of violating the Fifteenth Amendment, as is proved by the above cited extracts from the records of the Convention and the stenographic reports of the speeches made. In construing the meaning of the different parts of the Constitution of the United States, we have recourse to the imperfect records of the proceedings of the Convention that drafted that instrument. We turn to its Journal, to Elliott's Debates, and to the Federalist.

Our reports teem with extracts therefrom. When the question of the constitutionality of Section 5, Art. 197, of this Constitution comes before the Supreme Court of the United States, the meaning of this clause, its true intent, is, in the same way, open to explanation through examination of the language used by the makers of this Constitution.

This course does not seem to have been followed in the presentation of the case of Williams *v.* State of Mississippi, decided April 25, 1898.[1] However mistaken the adoption of the Fifteenth Amendment and however desirable it may be to exclude the vote of the ignorant Southern negroes, can we doubt that, when the question is carried to the Supreme Court of the United States, Section 5 of Art. 197 of this Constitution of Louisiana will be declared unconstitutional, if the court look at the true intent, real meaning, and actual operation thereof, by taking into consideration these declarations and explanations by the men who made it?

The only method to eliminate the negro vote of the South known to the jurist, and to all who believe in the enforcement of law, so long as it remains law, is to secure the repeal of the Fifteenth Amendment.

The manner in which the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution of the United States were carried through may be reprehensible, and the wisdom of the last two Amendments may admit of question. Nevertheless they are the law of the land, and, until altered in accordance with provisions of the Constitution, they must be obeyed.

Amasa M. Eaton.

PROVIDENCE, R. I.

[1] 170 U. S. 213.